

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 17, 2011

In the Matter of T. T. PLUMMER, Minor.

No. 299880
Wayne Circuit Court
Family Division
LC No. 88-268578

In the Matter of T. T. PLUMMER, Minor.

No. 299881
Wayne Circuit Court
Family Division
LC No. 88-268578

Before: SAAD, P.J., and JANSEN and K.F. KELLY, JJ.

PER CURIAM.

Respondents appeal the trial court's order that terminated their parental rights to the minor child under MCL 712A.19b(3)(g) and (j) and, regarding respondent mother, (b)(i) and (i). For the reasons set forth below, we affirm.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). Here, the trial court erred when it found that respondent mother caused a physical injury to the child because there was no direct evidence of any withdrawal symptoms or other physical injury resulting from respondent's prenatal cocaine use. There was also insufficient evidence that respondents' care caused or worsened the child's medical problem. However, we affirm if there was sufficient evidence of any statutory ground, regardless whether the trial court erred in finding another statutory ground. *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998), overruled in part on other grounds, *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000).

The trial court did not err when it found clear and convincing evidence that both respondents failed to provide proper care and custody and were not reasonably likely to do so within a reasonable time. MCL 712A.19b(3)(g). The prenatal cocaine use was evidence of neglect, *In re Nash*, 165 Mich App 450, 456; 419 NW2d 1 (1987), and showed that, despite years of substance abuse treatment, respondent mother relapsed again. Missed screens also made it difficult to determine whether respondent was abstaining from drug use. *In re LE*, 278 Mich

App 1, 27; 747 NW2d 883 (2008). Respondent's long history of treatment and relapses were strong evidence that she was unlikely to rehabilitate within a reasonable time.

Respondent mother's substance abuse placed her children in danger for decades, and respondent father was described as uninvolved and emotionally distant with all of his children. Respondents' treatment of their other children was also probative of how they would parent this child. *In re AH*, 245 Mich App 77, 84-85; 627 NW2d 33 (2001). Further, respondents' decision to hide this child for two months after her birth, in defiance of court orders, made it difficult to safely allow parenting time, much less place the child in their care. Respondent father concedes on appeal that he was with the child during that time, and he does not claim that he intended to parent independently from his wife.

The same evidence supported the trial court's finding that the child is likely to be harmed if returned to respondents. MCL 712A.19b(3)(j). There was also sufficient evidence that respondent mother's rights to other children were terminated because of serious, chronic neglect and because prior efforts to rehabilitate her failed. MCL 712A.19b(3)(i). Prior terminations alone are all that MCL 712A.19b(3)(l) requires; therefore, the trial court could have terminated her rights under that subsection. Although petitioner declined to argue prior terminations regarding the minor child's four older siblings, that did not extend to this child where different concerns were at issue.

Respondents also argue that the trial court erred when it found termination was in this child's best interests. MCL 712A.19b(5). Respondent mother is correct that this state's policy is to keep children with their parents whenever possible. *In re Brown*, 139 Mich App 17, 20; 360 NW2d 327 (1984); MCL 712A.1(3). However, there are times when termination is necessary to provide a child with a stable, permanent home. *In re Miller*, 433 Mich 331, 346; 445 NW2d 161 (1989). As respondent father argues on appeal, a parent's right to the custody of his child is an element of liberty protected by due process guarantees, and this liberty interest does not disappear merely because the respondent was not a "model parent." *Santosky v Kramer*, 455 US 745, 753; 102 S Ct 1388; 71 L Ed 2d 599 (1982). However, when there is clear and convincing evidence of a statutory ground for termination, the parent's liberty interest no longer includes the right to custody and control of his child. *In re Trejo*, 462 Mich at 355.

Respondents argue that they bonded with the child during the two months they kept her against the court's orders. However, the child did not have the mature, long-term attachment to respondents that their older children likely had. Respondents also cite the decision to return those children to their care; however, they were removed when this baby tested positive for cocaine at birth. The trial court was not required to grant respondents as many opportunities to parent this baby, who did not have the same bond and required more care and monitoring. Respondents' decision to hide the baby made it more likely that they would evade monitoring if the child were ever returned.

The older children had been temporary court wards since 2005, yet respondent mother used cocaine after the children were returned and while pregnant with the child at issue here. The baby required a safe home and permanency. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). The trial court did not err when it held that terminating both respondents' parental rights was in this child's best interests and when it terminated their parental rights.

Affirmed.

/s/ Henry William Saad
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly